

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THERESE ANN SIMONETTA,

Plaintiff,

v.

Case No. 13-10607
Honorable Denise Page Hood

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

ORDER ACCEPTING REPORT AND RECOMMENDATION
AND REMANDING ACTION

This matter is before the Court on Magistrate Judge Charles E. Binder's Report and Recommendation [Doc. No. 20, filed January 24, 2014]. To date, no objections have been filed to the Report and Recommendation and the time to file such has passed.

Judicial review of the Commissioner's decision is limited in scope to determining whether the Commissioner employed the proper legal criteria in reaching his conclusion. *Garner v. Heckler*, 745 F.2d 383 (6th Cir. 1984). The credibility findings of an administrative law judge ("ALJ") must not be discarded lightly and should be accorded great deference. *Hardaway v. Secretary of Health and Human Services*, 823 F.2d 922, 928 (6th Cir. 1987). A district court's review of an ALJ's decision is not a *de novo* review. The district court may not resolve conflicts in the evidence nor decide questions of credibility. *Garner*, 745 F.2d at 397. The decision of the Commissioner must be upheld if supported by substantial evidence, even if the record might support a contrary decision or if the district court arrives at a different conclusion. *Smith v. Secretary of HHS*, 893 F.2d 106, 108 (6th Cir. 1984); *Mullen v. Bowen*, 800 F.2d 535, 545 (6th Cir. 1986).

The Court has had an opportunity to review this matter and finds that the Magistrate Judge reached the correct conclusion for the proper reasons. The Court agrees with the Magistrate Judge that the ALJ's findings are not supported by substantial evidence. The Magistrate Judge reviewed the ALJ's findings and the record thoroughly in reaching his conclusion. The Court also agrees with the Magistrate Judge that the ALJ committed reversible error in failing to comply with Social Security Ruling 83-20 regarding the onset date of Plaintiff's impairments, failed to make a proper residual functional capacity assessment and failed to properly assess Plaintiff's credibility. The Court accepts the Magistrate Judge's recommendation to reverse the ALJ's decision and remand the matter to the Commissioner for an award of benefits.

For the reasons set forth above,

IT IS ORDERED that the Report and Recommendation of Magistrate Judge Charles E. Binder [Doc. No. 20, filed January 24, 2014] is **ACCEPTED** and **ADOPTED** as this Court's findings and conclusions of law.

IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgment [Doc. No. 13, filed July 6, 2013] is **GRANTED**.

IT IS FURTHER ORDERED that Defendant's Motions for Summary Judgment [Doc. No. 17, filed December 4, 2013] is **DENIED**.

IT IS FURTHER ORDERED that the Commissioner's decision is **REVERSED**.

IT IS FURTHER ORDERED this matter is REMANDED to the Commissioner for an award of benefits in favor of Plaintiff.

S/Denise Page Hood
Denise Page Hood
United States District Judge

Dated: February 28, 2014

I hereby certify that a copy of the foregoing document was served upon counsel of record on February 28, 2014, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry
Case Manager